

1 IN THE UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF CALIFORNIA

3 -----

4 IN RE MATTER OF:

5 NEKTAR THERAPEUTICS,

6 Plaintiff, Case No.

7 vs. 3 :23-CV-03943-JD

8 ELI LILLY & CO.,

9 Defendant.

10 -----

11

12

13 ***** CONFIDENTIAL *****

14 VIDEOTAPED DEPOSITION OF DANNI YU

15 (Held Remotely)

16

17 Thursday, May 1, 2025

18 1:00 p.m. (PT)

19

20

21

22

23 Stenographically Reported By:

24 Joan Ferrara, RMR, FCRR

25 Job No. 2025-982545

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1 comments through Teams to each other?

2 MR. BATTER: Objection.

3 A. The way we communicate with
4 comments are typically in emails and in
5 meetings. And we document if it was
6 communicated in like verbal or audio
7 meetings. And if the comments are
8 important as a decision, we document it in
9 email or we write it down as a meeting
10 note and distribute in email.

11 So my answer to your question is
12 I don't know how to answer because it's
13 current multiple cases.

14 Q. So one of the examples you said
15 was that you share study protocols in
16 Teams files, right?

17 A. No. I did not share protocol. I
18 shared SAP draft and SAP.

19 The reason I don't share protocol
20 is that my role, that's not covered that
21 part, I own SAP, so I share SAP.

22 Q. Okay. When you are developing an
23 SAP, do you upload a version of that SAP
24 with comments or edits to it into the
25 Teams group?

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1 A. About -- it's a very broad
2 question.

3 Q. You use Teams to chat to your
4 co-workers about REZPEG specific projects,
5 right?

6 A. Covering topics for REZPEG. I
7 also use Teams to reach maybe IT person
8 for other things or other like procedural
9 questions. So not only for REZPEG.

10 MR. BATTER: Madam Court
11 Reporter, I see you typed "covering
12 topics for REZPEG." I think the
13 testimony was "current topics for
14 REZPEG," but I leave it to the
15 witness. I'm just looking at the
16 realtime.

17 Q. Ms. Yu, did you say "covering
18 topics for REZPEG" or "current topics for
19 REZPEG"?

20 A. I mean covering, not only for
21 REZPEG, but I also use Teams chat for
22 other topics or subjects.

23 Q. What other topics or subjects do
24 you use Teams for?

25 A. For example, if like -- if I need

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1 to leave a meeting, but presenter is busy
2 in talking, I don't want to disturb, I
3 would say, sorry, I have another meeting,
4 I have to jump out, something like that.

5 Or if I sent out an email and I
6 need the co-worker to answer my email as
7 soon as possible, I would not wait. I
8 will ping my co-worker to say, hi, I sent
9 email at about which time, title is it, so
10 would you mind take a quick look and get
11 better chance to respond to me as soon as
12 possible.

13 So other things like this short
14 answer, very not important things, but
15 need to reach the others in timely base.

16 Q. Do you use Teams chat for any
17 other topics?

18 A. I thought I gave you examples,
19 yeah, already.

20 Q. Right. I am just asking if you
21 can think of any more examples.

22 A. Yeah, maybe something like I
23 received email from a co-worker about
24 analysis request, but the one I realize it
25 takes time, it cannot be answered right

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1 because we don't have that in front of us,
2 right?

3 A. I don't recall and, yes, because
4 no more information on the screen here.
5 And typically, I don't pay much attention
6 to team chat because it's only useful for
7 very short period and we maintain emails
8 and we maintain shared documents -- sign,
9 e-sign the documents.

10 Q. Your testimony is that you don't
11 pay a lot of attention to chats?

12 MR. BATTER: Objection.

13 A. My point is because I know the
14 chat doesn't stay long, so I don't keep
15 chat as an important -- to the place to
16 attach memory long time, because I don't
17 put important information in chat.

18 Q. You put everything that you put
19 in a Teams chat in an email?

20 MR. BATTER: Objection.

21 A. For important information, we
22 document it in email through communication
23 and also we document it at Nektar. IT
24 maintain the folders.

25 Q. Wouldn't you agree that

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1 A. I would consider that as a quick
2 message. But the important information is
3 in my email box.

4 Q. Would you expect one of your
5 co-workers to send you a message in Teams
6 about something important?

7 A. If it's important, they must send
8 me email as a documentation.

9 Q. So my question is, if Jenny is
10 sending you an email -- I'm sorry, strike
11 that.

12 Because Jenny is sending you a
13 message about signing the protocol through
14 chat, that's not important? That's your
15 testimony?

16 MR. BATTER: Objection.

17 A. I mean, signing the protocol is
18 important. So I received the email
19 request to sign the protocol. So signing
20 protocol is important. So it was sent by
21 email. Jenny is just double assure I can
22 respond as soon as quickly -- I mean
23 quickly, yes.

24 Q. So important things can be sent
25 both in chat and in email, right?

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1 A. No, no fair. Important message
2 must be sent by email. As a plus, people
3 may use Teams chat to remind you for
4 important message. But important message
5 must be in email.

6 Q. But an important message can also
7 appear in a chat, you would agree?

8 MR. BATTER: Objection.

9 A. It depends on the definition. So
10 reminding -- so the purpose for team chat
11 is to push me, do it quickly. So pushing
12 me do it quickly may not be important.
13 But finalizing protocol is important. So
14 finalizing protocol is important in email.

15 Q. And finalizing the protocol was
16 important enough to send you a reminder in
17 chat, correct?

18 MR. BATTER: Objection.

19 A. Here's the point. When we define
20 important, so if you do -- if you don't do
21 that, the result will be different.
22 That's important.

23 So we must send important message
24 in email to document. That's important.

25 Come back. If Jenny doesn't send

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1 documents, all the data and SAS code, all
2 related information as I know for -- yeah,
3 for this instruction, based on the
4 instruction.

5 Q. What steps did you take to keep
6 all of those documents that you just
7 described? How did you save them?

8 A. So not much changed before or
9 after because it's a typical standard to
10 keep the data in the same -- like for us,
11 like if we get data, we put it into data
12 folder, we name it the data. And if a
13 document, we put in a DOC folder and
14 program.

15 So we have a very clear pipeline
16 to put those different type of materials
17 into the designation folders, so -- and
18 plus emails communication, yeah.

19 Q. Let's scroll back up to the three
20 bullet points that we were looking at
21 earlier.

22 Did you use Teams chat to talk
23 about actions that Lilly took in the
24 development of REZPEG?

25 A. No.

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1 Q. Did you use Teams chat to talk
2 about Lilly didn't do in the development
3 of REZPEG?

4 A. No.

5 Q. Did you use Teams chat to talk
6 about any topics that relate to those
7 three bullet points?

8 A. I believe I didn't. So your
9 question is about did I talk about these
10 three items in Teams chat, right? That
11 was your question?

12 Q. Correct. My question was did you
13 talk about anything that could relate to
14 those topics in Teams chat.

15 A. Okay. No. The answer is no.

16 MR. BATTER: Carolyn, I don't
17 know if you had stepped away during
18 our last break, but Dr. Yu had
19 notified us that she has a hard stop
20 at 4:30. That seemed to be in line of
21 your estimate of when you'd finish,
22 and I need just about 10 minutes. So
23 I just wanted to let you know that
24 well in advance.

25 MS. WELTMAN: All right. Let's

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1 you to see if you were complying with the
2 preservation obligation?

3 MR. BATTER: Objection.

4 A. I don't know.

5 Q. Have you ever been informed that
6 you were not in compliance with the
7 preservation obligation?

8 A. No.

9 MS. WELTMAN: I think that's it
10 for my questions for now. I can pass
11 the witness.

12 EXAMINATION BY

13 MR. BATTER:

14 Q. So, Dr. Yu, I have about five
15 minutes. I understand it's 4:31. Are you
16 able to stick around for just five
17 minutes?

18 A. Yes, yes. Thank you. Thank you.

19 Q. Perfect. I'll dive right in
20 without a break.

21 What do you typically use Teams
22 chats for, Dr. Yu?

23 A. Only for very short message, very
24 short, not important, very short, not
25 important message. For like procedure,

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1 administration, quickly share document
2 locations and maybe answer very quick,
3 not -- answer quick questions which is not
4 important enough to be documented right
5 away because dynamics change.

6 And also -- yeah, so as I
7 summarize, so maybe administration quick
8 message and also procedure, short answer
9 for folder location or file locations, and
10 quick answer for simple questions which
11 are not important to be -- which would not
12 need to be documented, yeah.

13 Q. And the Teams chats that you
14 received from others at Nektar, are they
15 of the same type of chats that you send?

16 A. They typically have the same
17 way -- based on my observation, they
18 typically use the same approach as I did,
19 like asking for the location for file,
20 push for a quick response, and reminder,
21 and administrative, like a procedure, like
22 they need to jump off -- yeah, very
23 similar approach.

24 Q. And during your testimony with
25 Lilly's attorney, you gave a few examples,

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1 things like I will be there soon to a
2 meeting, I have to drop from this call,
3 and I'm busy, I'll review your email and
4 get back to you later.

5 Do you recall that?

6 A. Yes.

7 MS. WELTMAN: Objection. Form.

8 Q. Was your answer yes, Dr. Yu?

9 A. Yes.

10 Q. And are those typical types of
11 messages you send for Teams chats?

12 MS. WELTMAN: Objection. Form.

13 A. Typical, yes.

14 Q. Now, you had mentioned in your
15 testimony earlier that you were aware that
16 Teams chats were deleting after
17 approximately 24 hours?

18 A. I -- yes, I know.

19 Q. Did that change or impact in any
20 way the way that you used Teams chats?

21 MS. WELTMAN: Objection.

22 A. So do you mean that after a
23 couple of month ago team chats to be
24 maintained longer than 24 hours, this
25 change -- whether this change impact my

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1 daily work?

2 Q. No. I'll be more clear, and
3 thank you for your question.

4 I'm talking about the time period
5 when Teams chats were preserved for only
6 24 hours.

7 A. Uh-huh.

8 Q. Did your awareness that they were
9 only available for 24 hours impact the way
10 in which you used Teams chats?

11 MS. WELTMAN: Objection.

12 A. Yes, because it only keeps 24
13 hours. We don't put -- information need
14 to be preserved there. We must put a
15 document to where, like team folders, like
16 emails. That can be preserved. Because
17 we know it's only 24 hours, there's no way
18 to preserve. So I don't chat about
19 information that needs to be preserved.

20 Q. If you're not using Teams chats
21 to perform the core function of your work
22 at Nektar, what applications or tools do
23 you use to perform the core function of
24 your work?

25 MS. WELTMAN: Objection to form.

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1 A. Yeah, I use emails for
2 communication because I was told emails
3 are preserved automatically by IT. So
4 it's safe to use email.

5 And also I use folder, shared
6 folders, like at OneDrive -- like OneDrive
7 folders or Teams folders.

8 Q. And is it your understanding that
9 the emails you just referred to and the
10 Teams folders and documents, that those
11 are preserved at Nektar forever?

12 MS. WELTMAN: Objection.

13 A. I understand, yes.

14 Q. After Lilly terminated the
15 collaboration agreement in April 2023,
16 have you used Teams chats to communicate
17 about the collaboration agreement?

18 MS. WELTMAN: Objection.

19 A. No.

20 Q. After Lilly terminated the
21 collaboration agreement, have you used
22 Teams chats to comment on the work that
23 Lilly performed under that agreement?

24 MS. WELTMAN: Objection.

25 A. I did not comment their perform.

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1 I did not.

2 Q. And after Nektar sued Lilly in
3 August 2023, have you used Teams chats to
4 communicate about the lawsuit or the
5 claims in the lawsuit?

6 A. I did not communicate about the
7 lawsuit in Teams chat, no.

8 Q. Earlier you testified about the
9 document preservation notice you signed.

10 Do you recall that?

11 A. I need to preserve -- yeah, I
12 need to preserve, yes.

13 Q. And you recall that notice
14 referred to documents "relating to the
15 dispute with Lilly"?

16 Do you recall that language?

17 A. I remember, yes.

18 MS. WELTMAN: Objection to form.

19 Q. You said yes, you recall that
20 language from the preservation notice?

21 A. Related to the lawsuit here.

22 Q. That said relating to the
23 dispute.

24 Do you recall that?

25 A. In the document I signed on June

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1 13th?

2 Q. Correct.

3 Why don't we try to put that on
4 the screen quickly. I'm trying to save
5 Dr. Yu's time, but it's Exhibit 1427.

6 And Dr. Yu, I anticipate I have
7 two more minutes with you, max.

8 A. Thank you very much. Thank you.
9 I really feel very grateful. Thank you,
10 both Carolyn and Kyle. Thank you.

11 Q. Of course.

12 If you scroll down to the second
13 paragraph that begins "Immediately," do
14 you see in the middle of the second line
15 it says: Relating to the dispute?

16 Do you see that Dr. Yu?

17 A. I read -- yeah, I see the word:
18 Relating to the dispute.

19 Q. Okay. We can take this document
20 away.

21 Dr. Yu, did your Teams chats or
22 do your Teams chats even now relate to the
23 dispute with Lilly?

24 MS. WELTMAN: Objection.

25 A. I don't -- no, they are not

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1 related.

2 Q. I just want to be clear, you're
3 saying "no," not "I don't know"?

4 A. No, the team chat I used -- I
5 mean -- I mean all the words I put into
6 Teams chat, in my memory, are not related
7 to dispute.

8 Q. Did you comply with this document
9 preservation notice by not deleting
10 materials related to Nektar's dispute with
11 Lilly?

12 MS. WELTMAN: Objection.

13 A. Yes, I have been trying. I think
14 I have been keeping in my mind to comply,
15 yes.

16 Q. Did you attend an August 7, 2023
17 meeting where Nektar's general counsel
18 instructed employees not to use Teams
19 chats to communicate about the lawsuit?

20 MS. WELTMAN: Objection.

21 A. No, I did not because I was in
22 PTO.

23 Q. Okay. So you're aware that the
24 general counsel had that meeting and gave
25 that instruction, but you were not present

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1 due to PTO?

2 MS. WELTMAN: Objection.

3 A. I'm aware now. Now.

4 Q. Okay. And you didn't attend that
5 meeting because you were on PTO?

6 A. I did not attend meeting because
7 I was in PTO. The answer is yes. Yeah, I
8 did not.

9 Q. Even though you were not at the
10 August 7th meeting where Nektar's general
11 counsel gave that instruction, have you
12 worked consistent with that instruction
13 not to use Teams chats to discuss Lilly or
14 the lawsuit?

15 MS. WELTMAN: Objection.

16 A. I did not use Teams chat for the
17 lawsuit and I think, from two month ago I
18 have been focusing on our own Nektar
19 status. So I didn't. I even didn't touch
20 those Teams -- no, I didn't. The answer
21 is no.

22 MR. BATTER: Thank you. No
23 further questions. No further
24 questions.

25 FURTHER EXAMINATION

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1 REPORTER CERTIFICATE

2

3 I, JOAN FERRARA, do hereby

4 certify:

5 That said proceedings were taken

6 at the time and place herein named;

7 and that the transcript is a true

8 record of the testimony as reported by

9 me, a disinterested person, and was

10 thereafter transcribed.

11 I further certify that I am not

12 interested in the outcome of the said

13 action, nor connected with, nor

14 related to any of the parties in said

15 action, nor to their respective

16 counsel.

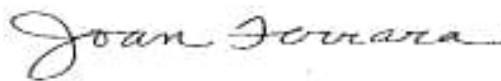
17 IN WITNESS WHEREOF, I have

18 hereunto set my hand this 4th day of

19 May, 2025.

20

21



22

23

JOAN FERRARA, RMR, FCRR

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25